

# EXHIBIT 5

CASE NO. C 07-0201 SC  
PLAINTIFFS' MOTION, NOTICE AND MEMORANDUM OF POINTS AND AUTHORITIES  
IN SUPPORT OF MOTION FOR FINAL APPROVAL OF SETTLEMENT ...

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

Jeff Pokorny, Larry Blenn, and Kenneth  
Busiere, on behalf of themselves and those  
similarly situated,

Plaintiffs,

v.

Quixtar, Inc.,

Defendants.

**CASE NO. C 07-0201 SC**

**[PROPOSED] ORDER GRANTING  
FINAL APPROVAL OF  
SETTLEMENT, ADOPTING JOINT  
PROPOSAL FOR DISTRIBUTION OF  
EXCESS, AND ADOPTING  
PROPOSED CONSENT JUDGMENT  
AND DISMISSAL OF ALL CLAIMS  
WITH PREJUDICE**

DATE: November 16, 2012

TIME: 10:00 a.m.

CTRM: The Honorable Samuel Conti

1 The Court, having considered: (1) the Class Action Amended Settlement Agreement,  
2 dated April 29, 2011, including all exhibits thereto; (2) Plaintiffs' and Quixtar's Joint Motion for  
3 Final Approval of Settlement, and their Joint Proposal for Distribution of Excess, filed on  
4 October 12, 2012, (3) all of the supporting materials submitted in connection with this Motion;  
5 and (4) all objections to the Motion; and having held a Hearing on November 16, 2012 and  
6 having considered the record of those proceedings, the representations and arguments of counsel,  
7 the Court hereby ORDERS that:

- 8 1. the Joint Motion for Final Approval of Settlement is GRANTED, and the Amended  
9 Settlement Agreement is APPROVED as fair, reasonable and adequate,
- 10 2. the Settlement Class preliminary certified in this Court's Order of February 21, 2012,  
11 is now CERTIFIED in accordance with Rule 23, Fed.R.Civ.Proc.,
- 12 3. the Plaintiffs' Proposal for distribution of excess cash and products is APPROVED,  
13 and the Claims Administrator is authorized to send the proposed notices as soon as  
14 possible, and
- 15 4. the proposed Consent Judgment and Dismissal of all Claims with Prejudice is  
16 APPROVED and shall be entered by the Court.

17  
18 IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2012.

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20 \_\_\_\_\_  
21 Hon. Samuel Conti  
22 United States District Judge  
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